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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/662,846	09/15/2003	Kenneth R. Schmidt	GP-303014	1213

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EXAMINER

TRAN, LEN

ART UNIT PAPER NUMBER

1725

DATE MAILED: 10/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/662,846

Applicant(s)

SCHMIDT ET AL.

Examiner

Len Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) 8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-7, drawn to an apparatus, classified in class 219, subclass 89.
 - II. Claim 8, drawn to a method, classified in class 219, subclass 91.2.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the process can be used with electrode rollers.

3. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

4. During a telephone conversation with Ms. Laura Hargitt on September 1, 2004 a provisional election was made *without traverse to prosecute the invention of group I, claims 1-*

7. Affirmation of this election must be made by applicant in replying to this Office action.

Claim 8 is withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the

currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Angel et al (US 5,252,801).

As to claim 1, Angel et al disclose a weld gun having a base (16), first and second arms (12 and 14) supported on the base for pivotal motion about a common axis extending laterally between the arms, a pair of electrodes (30) carried on the arms and engageable upon pivotable motion of the arms moving electrodes toward one another to a closed position, and further comprising:

A lever (34) supported on the base (16) and pivotable on a second axis spaced longitudinally from the first axis, the lever (34) having ends spaced in opposite directions from the second axis,

The ends of the lever being connected one with each of the first and second arms (figure 2),

An actuator (22) connected to actuate at least one of the arms in a pivotable motion (figure 2),

Whereby actuation of one arm is operative to pivot the lever to oppositely actuate the second arm in a predetermined manner so that the arms move the electrodes toward and away from one another (figure 2).

As to claim 2, one of the ends of the lever is connected with the arms through a rod (36a and 36b, figure 2).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 3-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Angel et al (US '801) as applied to claim 1 above, and further in view of Heideman (US 4,825,031).

As to claim 3-5, Angel et al disclose the claimed invention above, but fail to teach two resilient member is connected with a rod, between the lever and the arms, to limit variation of the electrode in closed position.

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However, Heideman discloses two resilient members (18 and 20), connected with the rod, between the support structure and the arms, for the purpose of varying the resistance provided to the movement of each arm member toward its closed position (abstract).

Therefore, it would have been obvious to one of ordinary skill in the art at the time applicant's invention was made to provide resilient members as taught by Heideman, between the lever and arms of Angel et al, in order to vary the resistance in the closed position.

As to claims 6 and 7, Angel et al fail to disclose a resilient member being a spring or a bushing.

However, Heideman discloses a resilient member being a hydraulic cylinder. The hydraulic cylinder serves the equivalent function as a spring or a bushing, since the cylinder is capable of withstanding a force that acts the same as the spring force. In addition, the cylinder is also capable to act as a bushing. It would have been obvious to replace a cylinder with a bushing or a spring, since it is much cheaper and easier to install than a cylinder.

Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Len Tran whose telephone number is (571) 272-1184. The examiner can normally be reached on M-F, 8:30 - 5.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Dunn can be reached on (571) 272-1171. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Len Tran
Examiner
Art Unit 1725



LT
October 15, 2004